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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,422

01/27/2004

Curtis A. Trudeau

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08/21/2006

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EXAMINER

BROWN, DREW J

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/766,422	Applicant(s) TRUDEAU ET AL.	
	Examiner Drew J. Brown	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/6/06 (amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16 and 23-27 is/are allowed.
- 6) ☒ Claim(s) 1, 5-10, 17, 19, 21, and 22 is/are rejected.
- 7) ☒ Claim(s) 2-4, 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the amendment filed on 6/6/06.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5-10, 17, 19, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiruma (U.S. Pat. No. 3,917,295).

With respect to claims 1, 7, 9, 17, and 22, Hiruma discloses a process of leveling a vehicle as the vehicle moves (column 1, lines 32-39) including an electronic ride height control system (column 1, lines 17-25) in communication with at least four fluid suspension elements (column 1, line 25), comprising measuring a first angle of a first vehicle axis and a second angle of a second angle of a second vehicle axis relative to a horizontal plane (column 3, lines 3-6), communicating information relating to the first and second angles to a controller (column 3, lines 22-23), processing the information with the controller to generate leveling instructions (column 3, lines 22-29), and automatically adjusting at least one of the at least four fluid suspension elements in a self leveling mode via the electronic ride height control system based on the leveling instructions, wherein the at least one of the first angle of the first vehicle axis and the second angle of the second vehicle axis relative to the horizontal plane is changed by the controller, whereby at least one of the first vehicle axis and the second vehicle axis is at least one of leveled relative to the horizontal plane and brought closer to being leveled relative to the horizontal plane (column 1, lines 11-27). Hiruma also discloses a standard leveling mode (abstract), wherein the controller is incapable of automatically adjusting at least one of the at least four fluid suspension elements via the electronic ride height control, so that the electronic ride height control can operate without being controlled by the controller.

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With respect to claims 5, 10, and 19 the controller at least one of controls and overrides the electronic height control system in the adjusting step (column 3, lines 22-29) and in the self leveling mode.

With respect to claims 6 and 21, the first vehicle axis is of a side to side axis (roll, column 3, line 5) and the second axis is a fore to aft axis (pitch, column 3, line 6) of the vehicle,.

With respect to claim 8, the controller is an electronic control unit (46), and wherein the sensor is at least one leveling sensor (42).

Allowable Subject Matter

3. Claims 11-16 and 23-27 are allowed.
4. Claims 2-4, 18, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Although Schneider et al. (U.S. Pat. No. 5,913,525) discloses a level indicator for providing a visual indication to the operator that the vehicle has attained a level condition, it would not have been obvious to modify the invention of Hiruma in view of the teachings of Schneider because the adjustment of the suspension elements of Hiruma is performed while driving in order to avoid roll or pitch. The adjustment happens so fast that an indicator would not be useful for the driver. However, the indicator of Schneider et al. is used while the vehicle is not moving to alert the operator when the vehicle has attained a level condition. For these reasons, the prior art fails to disclose outputting the information to an operator via at least one of a display and an audible indicator.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 7, 11, 17, and 23 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown
Examiner
Art Unit 3616

db
8/16/06


PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600